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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHIPCO TRANSPORT INC.

Plaintiff,

-against-

JDB INTERNATIONAL, INC.

And

LAPTON FREIGHT INTERNATIONAL, Inc.

Defendants.

---X

LAPTON FREIGHT INTERNATIONAL LIMITED,

Defendant/Third Party Plaintiff,

-against-

TAKMAY INDUSTRIAL COMPANY LIMITED,

Third Party Defendant

---X

Case No.: O9 CIV 7532(CM)
ECF CASE

MEMO ENDORSED

PLAINTIFF'S MOTION TO EXTEND DISCOVERY PROVIDED IN THE SCHEDULING ORDER

The Hon. Colleen McMahon

1/31/2011
Motion granted — no more extensions will be allowed
CM

COMES NOW Plaintiff Shipco Transport Inc. by and through counsel. and moves this Court pursuant to Rule 16(b)(4) of the Federal Rules of Civil Procedure and in accordance with the Individual Practices (1E) of The Hon. Colleen McMahon for an order extending written fact discovery provided in the Scheduling Order entered on December 1, 2010, and modified on January 18 and 20, 2011.

Plaintiff requests additional time of 35 days to serve defendant Lapton Freight International Limited (Lapton) with a second set of interrogatories, requests for production of documents, and requests for admission and allowing Lapton sufficient time to respond to the discovery.

The current scheduling order herein states a deadline of December 10, 2010, for fact discovery, However, The Hon. Colleen McMahon recommended additional discovery be served on Defendant Lapton on the subject of Lapton's corporate structure and the involvement of Lapton and its offices in Hong Kong and Shenzhen, China in the Judge's order dated November 17, 2010;

WHEREAS, there were not sufficient days remaining from Nov. 17 to December 10 to prepare, serve, and allow 30 days' to respond to this additional discovery to this defendant, pursuant to Fed..R.Civ..P. 33(b)(2), 34(b)(2), and 36(a)(3), and

WHEREAS, Plaintiff had earlier served on Lapton a first set of interrogatories, requests for production of documents an requests for admissions on or about April 17, 2010, and requires additional information on the subjects recommend by Judge McMahon. And a proposed stipulation allowing additional discovery was sent to Lapton's counsel on Dec. 27, 2010. Notice of its rejection of the stipulation was sent to Plaintiff on January 24, 2011.

Plaintiff states the following as required by the Individual Practices of Judge McMahon (1E):

1) Original Date: December 10, 2010 (Fact discovery deadline)

2) Number of previous requests for extension: 5 (all parties)

3) Previous requests have been granted: 5 (all parties)

4) No dates on the current Scheduling Order will be affected by this Motion and Order.

WHEREFORE, Plaintiff moves that the Scheduling Order in this action be amended by extending the time allowed for written fact discovery from Plaintiff to Defendant Lapton

Freight International Limited for a period of 35 days from the date of the Court's order on this subject, including adequate time for service and 30 days' response by Lapton.

Respectfully submitted,

Dated: January 26, 2011
Washington, D.C.

Todd C Fineberg, Esq. (TF 0980)
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Certificate of Service

I, Todd C. Fineberg, hereby certify that the foregoing Plaintiff's Motion to Extend Discovery Provided in the Scheduling Order together with proposed Order was filed on January 26, 2011, in Court electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filings system or by mail to anyone unable to accept electronic service. Parties may access this filing through the Court's CM/ECF system.

Dated: January 26, 2011

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